IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 655/2002

FIRM GUJARMAL AGARWAL & ANR.
Vs.
STATE OF RAJASTHAN & ANR.

DATE: 13.03.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. Neeraj Batra for the petitioners.
Mr. B.S. Chhaba, PP for the State.
Mr. Inderjeet Singh for the respondent No.2.

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The present criminal revision petition under Section 397 r/w Section 401 Cr.P.C. is preferred by the petitioners against the order dated 05.04.2002 passed by the Special Judge (Communal Riots/ Mansingh Murder Case), Jaipur in Criminal Appeal No. 04/99, whereby the Appellate Court has dismissed the application filed by the petitioners under Section 391 Cr.P.C. for placing certain documents on record.

The case of the petitioners is that they simply want to place on record the documents Form No. 40 and 41 to show that the alleged 'Ghee' was not sold within the territory of the State and was sold outside the State, therefore, they moved the application which

was opposed by the learned counsel for the respondent on the ground that at the time of trial ample opportunity was given before the trial Court and this fact was within the knowledge of the petitioners but they failed to produce these documents which now they want to produce at the appellate stage. Thus, the Appellate Court has rightly rejected the application of the petitioners for bringing the form No. 40 and 41 on record.

Having considered the submission made by the learned counsel for the petitioner, learned counsel for the respondent and upon careful perusal of the order impugned dated 05.04.2002 as well the relevant record, it is no doubt that the petitioners have moved the application before the Appellate Court for taking the form No. 40 and 41 on record meaning thereby that they want fresh trial. The Appellate Court has considered this fact that the petitioners were well within the knowledge regarding form No. 40 and 41 which the petitioners could not file before the trial Court and at the appellate stage the Appellate Court has found no merit in the application dated 26.04.97 filed by the petitioners under Section 391 Cr.P.C. and has rejected the same vide its order dated 05.04.2002.

So far as rejection of the application of the petitioners is concerned, I find no illegality in the impugned order dated 05.04.2002 passed by the Appellate Court. Even the petitioner can only raise the legal arguments before the Appellate Court with regard to form No. 40 and 41, but at this stage the said documents cannot be accepted at appellate stage and, therefore, no interference whatsoever is required by this Court in the impugned order of the Appellate Court dated 05.04.2002 as the petitioners could have file the said documents well within time before the trial Court, but they failed to do so.

Consequently, the revision petition fails and the same is hereby dismissed.

Record be sent back forthwith.

(K.S. RATHORE),J.

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